

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

United States of America, : :

Plaintiff, : Case No. 2:00-cr-78(1)
Case No. 2:00-cr-162(1)

v. : JUDGE GEORGE C. SMITH

Donald Alfred Wolfe, : :

Defendant. : :

REPORT AND RECOMMENDATION

The issue of revocation of defendant's supervised release was referred to the magistrate judge by order dated June 12, 2013. A final supervised release revocation was held on June 14, 2013. This constitutes the Court's recommendation as to the disposition of the supervised release violations.

No evidence was presented at the hearing. The defendant stipulated to several violations, including the commission of a new criminal offense (in Indiana) while on supervised release, and leaving the Southern District of Ohio without permission. The parties then argued the issue of an appropriate sentence.

The guideline range for these violations is 15-21 months. Both the United States (with the concurrence of the probation office) and the defendant recommended a nine-month sentence, with no supervised release to follow. That recommendation was based on the fact that defendant had been successful on supervised release for almost all of the three-year term and that he had already served two years in prison in Indiana for the new crime which he committed. The Court agrees that a nine-month sentence is appropriate in these particular circumstances both to punish defendant adequately for committing a crime while on supervised release and to deter others from doing so.

It is therefore recommended that the Court find that

defendant violated his supervised release by violating Mandatory Condition No. 1 (commission of a new offense) and Standard Condition No. 1 (leaving the judicial district without the permission of the court or probation officer). It is further recommended that the Court sentence defendant to a term of imprisonment of nine months, with no term of supervised release to follow.

PROCEDURE ON OBJECTIONS

If any party objects to this Report and Recommendation, that party may, within fourteen days of the date of this Report, file and serve on all parties written objections to those specific proposed findings or recommendations to which objection is made, together with supporting authority for the objection(s). A judge of this Court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. Upon proper objections, a judge of this Court may accept, reject, or modify, in whole or in part, the findings or recommendations made herein, may receive further evidence or may recommit this matter to the magistrate judge with instructions. 28 U.S.C. §636(b)(1).

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to have the district judge review the Report and Recommendation de novo, and also operates as a waiver of the right to appeal the decision of the District Court adopting the Report and Recommendation. See Thomas v. Arn, 474 U.S. 140 (1985); United States v. Walters, 638 F.2d 947 (6th Cir.1981).

/s/ Terence P. Kemp
United States Magistrate Judge